

## § 403.9

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the time periods within which responses will take place;

(iii) Identify (by title) the official(s) responsible for each type of response;

(iv) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8 (f)(1) and (f)(2).

(6) The POTW shall prepare and maintain a list of its industrial users meeting the criteria in § 403.3(u)(1). The list shall identify the criteria in § 403.3(u)(1) applicable to each industrial user and, for industrial users meeting the criteria in § 403.3(u)(ii), shall also indicate whether the POTW has made a determination pursuant to § 403.3(u)(2) that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the Approval Authority pursuant to § 403.9 as a non-substantial modification pursuant to § 403.18(d). Modifications to the list shall be submitted to the Approval Authority pursuant to § 403.12(i)(1).

[46 FR 9439, Jan. 28, 1981, as amended at 49 FR 31224, Aug. 3, 1984; 51 FR 20429, 20430, June 4, 1986; 51 FR 23759, July 1, 1986; 53 FR 40612, Oct. 17, 1988; 55 FR 30129, July 24, 1990; 58 FR 18017, Apr. 7, 1993; 60 FR 33932, June 29, 1995; 62 FR 38414, July 17, 1997]

### **§ 403.9 POTW pretreatment programs and/or authorization to revise pretreatment standards: Submission for approval.**

(a) *Who approves Program.* A POTW requesting approval of a POTW Pretreatment Program shall develop a program description which includes the information set forth in paragraphs (b)(1) through (4) of this section. This description shall be submitted to the Approval Authority which will make a determination on the request for program approval in accordance with the procedures described in § 403.11.

(b) *Contents of POTW program submission.* The program description must contain the following information:

(1) A statement from the City Solicitor or a city official acting in a comparable capacity (or the attorney for those POTWs which have independent legal counsel) that the POTW has authority adequate to carry out the programs described in § 403.8. This statement shall:

(i) Identify the provision of the legal authority under § 403.8(f)(1) which provides the basis for each procedure under § 403.8(f)(2);

(ii) Identify the manner in which the POTW will implement the program requirements set forth in § 403.8, including the means by which Pretreatment Standards will be applied to individual Industrial Users (e.g., by order, permit, ordinance, etc.); and,

(iii) Identify how the POTW intends to ensure compliance with Pretreatment Standards and Requirements, and to enforce them in the event of noncompliance by Industrial Users;

(2) A copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW for its administration of the Program. This Submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW Pretreatment Program if approved;

(3) A brief description (including organization charts) of the POTW organization which will administer the Pretreatment Program. If more than one agency is responsible for administration of the Program the responsible agencies should be identified, their respective responsibilities delineated, and their procedures for coordination set forth; and

(4) A description of the funding levels and full- and part-time manpower available to implement the Program;

(c) *Conditional POTW program approval.* The POTW may request conditional approval of the Pretreatment Program pending the acquisition of funding and personnel for certain elements of the Program. The request for conditional approval must meet the requirements set forth in paragraph (b) of this section except that the requirements of paragraph (b) of this section, may be relaxed if the Submission demonstrates that:

(1) A limited aspect of the Program does not need to be implemented immediately;

(2) The POTW had adequate legal authority and procedures to carry out those aspects of the Program which

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will not be implemented immediately; and

(3) Funding and personnel for the Program aspects to be implemented at a later date will be available when needed. The POTW will describe in the Submission the mechanism by which this funding will be acquired. Upon receipt of a request for conditional approval, the Approval Authority will establish a fixed date for the acquisition of the needed funding and personnel. If funding is not acquired by this date, the conditional approval of the POTW Pretreatment Program and any removal allowances granted to the POTW, may be modified or withdrawn.

(d) *Content of removal allowance submission.* The request for authority to revise categorical Pretreatment Standards must contain the information required in § 403.7(d).

(e) *Approval authority action.* Any POTW requesting POTW Pretreatment Program approval shall submit to the Approval Authority three copies of the Submission described in paragraph (b), and if appropriate, (d) of this section. Within 60 days after receiving the Submission, the Approval Authority shall make a preliminary determination of whether the Submission meets the requirements of paragraph (b) and, if appropriate, (d) of this section. If the Approval Authority makes the preliminary determination that the Submission meets these requirements, the Approval Authority shall:

(1) Notify the POTW that the Submission has been received and is under review; and

(2) Commence the public notice and evaluation activities set forth in § 403.11.

(f) *Notification where submission is defective.* If, after review of the Submission as provided for in paragraph (e) of this section, the Approval Authority determines that the Submission does not comply with the requirements of paragraph (b) or (c) of this section, and, if appropriate, paragraph (d), of this section, the Approval Authority shall provide notice in writing to the applying POTW and each person who has requested individual notice. This notification shall identify any defects in the Submission and advise the POTW and each person who has requested indi-

vidual notice of the means by which the POTW can comply with the applicable requirements of paragraphs (b), (c) of this section, and, if appropriate, paragraph (d) of this section.

(g) *Consistency with water quality management plans.* (1) In order to be approved the POTW Pretreatment Program shall be consistent with any approved water quality management plan developed in accordance with 40 CFR parts 130, 131, as revised, where such 208 plan includes Management Agency designations and addresses pretreatment in a manner consistent with 40 CFR part 403. In order to assure such consistency the Approval Authority shall solicit the review and comment of the appropriate 208 Planning Agency during the public comment period provided for in § 403.11(b)(1)(ii) prior to approval or disapproval of the Program.

(2) Where no 208 plan has been approved or where a plan has been approved but lacks Management Agency designations and/or does not address pretreatment in a manner consistent with this regulation, the Approval Authority shall nevertheless solicit the review and comment of the appropriate 208 planning agency.

[53 FR 9439, Jan. 28, 1981, as amended at 53 FR 40612, Oct. 17, 1988; 58 FR 18017, Apr. 7, 1993]

### **§ 403.10 Development and submission of NPDES State pretreatment programs.**

(a) *Approval of State Programs.* No State NPDES program shall be approved under section 402 of the Act after the effective date of these regulations unless it is determined to meet the requirements of paragraph (f) of this section. Notwithstanding any other provision of this regulation, a State will be required to act upon those authorities which it currently possesses before the approval of a State Pretreatment Program.

(b) [Reserved]

(c) *Failure to request approval.* Failure of an NPDES State with a permit program approved under section 402 of the Act prior to December 27, 1977, to seek approval of a State Pretreatment Program and failure of an approved State to administer its State Pretreatment